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CITY AND COUNTY OF SAN FRANCISCO

10
11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 SELINA KEENE, MELODY FOUNTILA,
14 MARK MCCLURE,

15 Plaintiffs,

16 vs.

17 CITY and COUNTY OF SAN FRANCISCO;
LONDON BREED, Mayor of San Francisco in
18 her official capacity; CAROL ISEN, Human
Resources Director, City and County of San
19 Francisco, in her official capacity; DOES 1-
100,

20 Defendants.
21

Case No. 4:22-cv-01587-JSW

**DECLARATION OF LAUREN E. WOOD IN
SUPPORT OF ADMINISTRATIVE MOTION
TO CONSIDER WHETHER CASES SHOULD
BE RELATED**

(Civil L.R. 3-12(b) and 7-11)

Judge: Hon. Jeffrey S. White

Trial Date: None set.

1 I, Lauren E. Wood, hereby declare:

2 1. I am a member of the bar of the state of California and counsel of record for defendants
3 in this action (collectively, "the City"). I submit this declaration to support San Francisco's Motion to
4 to Consider Whether Cases Should be Related. If called as a witness, I could and would testify
5 competently to the matters set forth herein.

6 2. Attached hereto as **Exhibit A** is a true and correct copy of the complaint filed January
7 17, 2023 in *Sanders v. San Francisco Public Library et al.*, Case No. 3:23-cv-00211-JD.

8 I declare under penalty of perjury under the laws of the State of California and the United
9 States that the foregoing is true and correct. Executed March 29, 2023 in San Francisco, California.

10
11 /s/ Lauren E. Wood
12 LAUREN E. WOOD
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EXHIBIT A

Introduction

1. Plaintiff Charlotte Rae Sanders (“Ms. Sanders” or “Plaintiff”) brings this civil rights action against the San Francisco Public Library, Defendant Michael Lambert, and Defendant Lawrence P. Lindisch (collectively, “Defendants”) seeking injunctive relief and damages under 42 U.S.C. § 1983 and 42 U.S.C. §2000e for her unlawful termination from her Permanent Civil Service position as a Class 3630 Librarian I.

Jurisdiction and Venue

2. This Court has jurisdiction under 28 U.S.C. §§ 1331 because all claims arise under the laws of the United States.

3. This Court has authority to grant the requested declaratory relief under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. This Court is also authorized to grant injunctive relief and damages under 42 U.S.C. §1983, damages under 42 U.S.C. §2000e, and award reasonable attorney’s fees and costs under 42 U.S.C. § 1988.

4. Venue is appropriate in the Northern District of California because it is the district in which the events giving rise to the claims occurred.

5. Defendants are all subject to personal jurisdiction within this judicial district because they are all domiciled the State of California.

Parties

6. Plaintiff Charlotte Sanders is a citizen of the State of California. She worked as a librarian at the San Francisco Public Library for 19 years, supporting her family as the primary income-earner.

7. Defendant Michael Lambert is made party to this action in his official capacity as the City Librarian for the San Francisco Public Library (the “Library”). He also holds termination authority for his subordinates and informed Ms. Sanders about her dismissal from City service. He is a citizen of the State of California.

8. Defendant Lawrence P. Lindisch is made party to this action in his official capacity as a Senior Human Resources Analyst who served as the *Skelly* officer for Ms. Sanders’ *Skelly* hearing in which he recommended that Ms. Sanders be terminated from employment. He is a citizen of the State of California.

Facts

9. Plaintiff Charlotte Sanders worked for the Library for nineteen years. Originally, she was a frontline reference librarian, but for the last five years before her termination, she served in the Collection Development Office of the Library, which is a position that does not interface with the public. The Collection Development Office itself is located in a building a few blocks from the Main Branch of the SFPL and is closed to the public.

10. Ms. Sanders’ primary duties consisted of ordering all audiovisual material for the adult collection, evaluating more than 800 patron material suggestions the Library receives each month, and selecting and ordering titles for the Romance and Health reading collections. While employed by the Library, Ms. Sanders was active in her workplace and served on various committees including as chairwoman of one of those committees.

58 11. On or about March 13, 2020, President Trump issued a “Proclamation
59 of a National State of Emergency Concerning the Novel Coronavirus Disease
60 (COVID-19) Outbreak.” Shortly thereafter, the nation began to go into
61 lockdown, which involved the closing of public and private facilities.

62 12. On or about March 16, 2020, the Library closed its public operations.

63 13. Ms. Sanders’ department, however, was able to shift immediately to
64 telecommuting. In fact, Ms. Sanders did not take any time off due to COVID
65 because all her work could be performed remotely.

66 14. Throughout the shutdown, Ms. Sanders fulfilled all her regular duties
67 as well as additional work of other frontline librarians who were on
68 administrative leave or eventually deployed as city disaster workers. Ms.
69 Sanders thrived while telecommuting and kept in constant contact with the
70 rest of the Library staff throughout the day on Microsoft Teams.

71 15. During the telecommuting work period, Ms. Sanders received an
72 exceptional employee performance review.

73 16. On June 23, 2021, the City and County of San Francisco (“City”)
74 announced its COVID-19 Vaccination Policy, which mandated that all City
75 employees report their vaccination status to the City by July 29, 2021 and be
76 fully vaccinated no later than 10 weeks after the Federal Food and Drug
77 Administration (“FDA”) gave final approval to a vaccine.

78 17. On July 11, 2021, Ms. Sanders returned to her office at the Library
79 Collection Development Office with a hybrid telecommuting schedule. She
80 would work two days at the office and three days a week remotely from home.

81 18. On August 23, 2021, the FDA approved Pfizer-BioNTech's vaccine,
82 known as Comirnaty.

83 19. On August 25, 2021, the City notified Ms. Sanders that a COVID vaccine
84 had been approved and all City employees fell under the mandate to get the
85 vaccine and report their vaccination status to the City no later than November
86 1, 2021.

87 20. On September 11, 2021, Ms. Sanders returned fully to in-person work
88 complying with all Library safety precautions, including masking, a daily
89 online health screening questionnaire, and other COVID hygiene measures,
90 such as frequent handwashing.

91 21. Ms. Sanders' department continued work in cubicles which were at least
92 six feet apart. Meetings were conducted via Zoom or Microsoft Teams, and
93 colleague interaction occurred only upon passing one another in the building.
94 There was no interaction with the public.

95 22. In September of 2021, the City of San Francisco, and by extension the
96 Library, imposed a vaccine mandate on its employees, requiring all employees
97 to receive a COVID-19 vaccine unless they qualified for an exemption. The
98 mandate gave the Library the authority to grant exemptions to its employees.

99 23. On or about September 29, 2021, Ms. Sanders contacted the Library and
100 asked where she could submit her request for an exemption from the vaccine
101 mandate. She received a reply directing her to use the form on the Library
102 website to submit the request to the HR department.

103 24. On October 1, 2021, Ms. Sanders submitted her request for a religious
104 exemption.

105 25. As stated in the City's Employee Request for Religious Accommodation
106 form, the request may be granted to City employees who (1) hold a sincere
107 religious belief that conflicts with the vaccination requirement, (2) complete
108 the required form, and (3) provide any necessary information needed to support
109 the exemption request.

110 26. The request for exemption detailed Ms. Sanders' sincerely held religious
111 belief that the use of aborted fetuses, or cells derived therefrom, in the vaccine
112 process is gravely evil and that participating by permitting herself to be
113 injected with those vaccines would compound that moral wrong.

114 27. On October 7, 2021, a week after Ms. Sanders submitted her request,
115 Jamie Shih, Senior HR Analyst for the San Francisco Public Library, asked
116 Ms. Sanders to submit a "Declaration of Support" from someone who knew of
117 her faith.

118 28. On October 13, 2021, Ms. Sanders submitted the requested declaration
119 from Elka Carroll, who attested to the sincerity of Ms. Sanders' religious belief.

29. Ms. Sanders is a non-denominational Christian who has been a practicing Christian since childhood and regularly attends church. She underwent an intense spiritual awakening in 2010. After much prayer and contemplation, Ms. Sanders stopped vaccinating that same year.

30. Ms. Sanders believes in the sanctity of human life and is opposed to the use of fetal stem cells in the development, testing, or manufacturing of vaccines.

31. The COVID-19 vaccines available to Ms. Sanders at the time the mandate was imposed were developed in part with the use of fetal stem cells.

32. The City's (and therefore the Library's) policy states that after an employee establishes a sincere religious objection, employers "must then engage with the employee to determine if the employer can provide a reasonable accommodation in lieu of vaccination." *See* FAQs for COVID-19 Health Order C19-07y, SAN FRANCISCO DEPARTMENT OF PUBLIC HEALTH (Mar. 14, 2022) <https://www.sfdph.org/dph/alerts/coronavirus-faq.asp>.

33. No Library employee engaged with Ms. Sanders to determine if the Library could provide a reasonable accommodation to Ms. Sanders.

34. Instead, the Library moved to formally discipline Ms. Sanders.

35. On October 14, 2021, Ms. Sanders was called into the office of floor manager Shellie Cocking. Ms. Cocking read from a statement that Ms. Sanders was a valued employee, and Ms. Cocking offered to provide Ms. Sanders more

141 information about the vaccines if Ms. Sanders needed any. Ms. Cocking also
142 offered to go with Ms. Sanders to get a vaccine.

143 36. Ms. Sanders informed Ms. Cocking that she had notified HR requesting
144 an exemption based upon her religious beliefs. That ended the conversation
145 between the two. Ms. Cocking asked Ms. Sanders to sign the COVID-19
146 Vaccination Discussion Acknowledgement form and ended the meeting. Ms.
147 Cocking was wholly uninterested in engaging in conversation about Ms.
148 Sanders' religious views or desire for a religious exemption.

149 37. Eleven days after her truncated conversation with Ms. Cocking, Ms.
150 Shih sent Ms. Sanders thirteen further questions. These questions were
151 unnecessarily intrusive and upsetting to Ms. Sanders. They included a request
152 for a complete lifetime history of all medical procedures and medications and
153 probing questions about her faith and religious doctrine.

154 38. The next day—October 26, 2021—Ms. Sanders completed and returned
155 the additional questions, despite their invasive nature.

156 39. On October 27, 2021, Ms. Shih sent an additional four questions,
157 including asking whether Ms. Sanders' son had previously received certain
158 vaccinations. Ms. Sanders considered these questions a violation of her child's
159 medical privacy. Nevertheless, she complied with this request, too, submitting
160 her answers on October 28, 2021.

161 40. On October 29, 2021—the very next day—the Library denied Ms.
162 Sanders' request for a religious exemption for three purported reasons: (1) an

163 accommodation would pose a direct threat to the health and safety of others
164 and/or Ms. Sanders, (2) an accommodation would prevent Ms. Sanders from
165 performing essential function(s), and (3) an accommodation would result in
166 undue hardship for the City.

167 41. When Ms. Sanders arrived at work on November 1, 2021, she was told
168 to report to Denise Schmidt, manager of Collections and Cataloguing. At the
169 meeting, Ms. Schmidt gave Ms. Sanders a packet with the *Skelly* meeting
170 instructions and notified Ms. Sanders she was officially being placed on leave.
171 Ms. Sanders was told to collect her belongings and leave the premises
172 immediately, which was humiliating and distressing to Ms. Sanders.

173 42. Once the Library denied Ms. Sanders her requested exemption, it
174 considered Ms. Sanders in violation of the City's COVID-19 Vaccination Policy.
175 Shellie Cocking signed the Notice of Proposed Employment Action and *Skelly*
176 Meeting (*Skelly* Notice) on November 1, 2021.

177 43. On November 16, 2021, Ms. Sanders appeared at the *Skelly* meeting,
178 which was also attended by Arcelia Montoya, a Union Field Representative,
179 and Yoon Gette, a Union Chapter President. Mr. Gette read a statement
180 contending that the Library failed to bargain in good faith and therefore
181 violated paragraph 624 of the L-1021 Collective Bargaining Agreement.

182 44. Defendant Lawrence Lindisch, the *Skelly* officer, disregarded both Ms.
183 Sanders' and Mr. Gette's responses. He also gave no attention to possible
184 accommodations and instead claimed that Ms. Sanders' unvaccinated status

185 “endangers the health and safety of the City’s workforce and the public we
186 serve.” Mr. Lindisch upheld the Library’s decision to fire Ms. Sanders.

187 45. Defendant Lindisch did not cite a single piece of scientific or medical
188 evidence to support his claim that Ms. Sanders’ unvaccinated status
189 endangered the health and safety of the City’s workforce.

190 46. On November 29, 2021, Ms. Sanders received notice from the Library,
191 signed by Defendant Michael Lambert, that she was officially dismissed from
192 her Permanent Civil Service position as a Class 3630 Librarian I. Defendant
193 Lambert affirmed the findings of Defendant Lindisch.

194 47. Ms. Sanders received a final notice of dismissal on April 4th, 2022, which
195 was signed by Defendant Lambert.

196 48. As a result of her termination, Ms. Sanders has suffered immense
197 financial and psychological harm.

198 49. Following her dismissal, Ms. Sanders timely filed a charge of
199 discrimination with the United States Equal Employment Opportunity
200 Commission. On October 18, 2022, Ms. Sanders received her Notice of Right to
201 Sue.

202 50. Around the time the Library terminated Ms. Sanders, the City of San
203 Francisco (the parent entity of the Library) granted numerous exemptions to
204 the vaccine requirement to various other employees. Upon information and
205 belief, at least some of these other exemptions were granted to non-Christians

or were not religious exemptions at all. In so doing, the City demonstrated an animus against Christianity or religion generally.

CAUSES OF ACTION

COUNT I

Violation of the First Amendment’s Free Exercise Clause, against all Defendants in their official capacities pursuant to §1983

51. Ms. Sanders incorporates all allegations of this Complaint by reference as if set forth in full herein.

52. The First Amendment provides that “Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof.” U.S. CONST., AMEND. I. The Free Exercise Clause is incorporated against the States via the Fourteenth Amendment. *Cantwell v. Connecticut*, 310 U.S. 296 (1940).

53. The Free Exercise Clause of the First Amendment prohibits the government from enacting or enforcing laws or policies targeting the exercise of religious belief unless such laws are narrowly tailored to achieve a compelling government interest. *Roman Cath. Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 67 (2020).

54. A law is not generally applicable, and therefore triggers strict scrutiny under the Free Exercise Clause, whenever it “represents a system of ‘individualized governmental assessment of the reasons for the relevant conduct.’” *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S.

520, 537, 113 S. Ct. 2217, 2229 (1993). The Library's vaccination policy provides for individualized discretionary exceptions, and thus is not generally applicable.

55. Because the Library's vaccine policy is not generally applicable, it is subject to strict scrutiny.

56. Under strict scrutiny, the Library's mandate must be narrowly tailored to serve a compelling governmental interest and be the least restrictive means for achieving such interest.

57. Requiring all employees to be vaccinated from COVID-19 was not the least restrictive means to achieve public health and safety because the Library could have required Ms. Sanders to work remotely if she chose to not be vaccinated, as it had previously done.

58. Indeed, the Library required Ms. Sanders to continue working remotely during the COVID shutdown. Ms. Sanders did so effortlessly, even receiving a laudatory review from the Library for her remote work. This alternative is therefore clearly effective. There is no credible reason why the Library officials could not accommodate Ms. Sanders' religious beliefs by offering this remote work alternative.

59. By terminating Ms. Sanders' from her job, Defendants have substantially burdened her religious exercise by forcing her to choose between her sincerely held religious belief and her job.

60. Ms. Sanders requests declaratory relief in the form of a declaration that the Library violated her First Amendment rights.

COUNT II

Violation of the First Amendment’s Free Exercise Clause, against all Defendants in their individual capacities pursuant to §1983

61. Ms. Sanders incorporates all allegations of this Complaint by reference as if set forth in full herein.

62. The First Amendment provides that “Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof.” U.S. CONST., AMEND. I. The Free Exercise Clause is incorporated against the States via the Fourteenth Amendment. *Cantwell v. Connecticut*, 310 U.S. 296 (1940).

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280 to serve a compelling governmental interest and be the least restrictive
281 means for achieving such interest.

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283 least restrictive means to achieve public health and safety because the Library
284 could have required Ms. Sanders to work remotely if she chose to not be
285 vaccinated, as it had previously done.

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288 laudatory review from the Library for her remote work. This alternative is
289 therefore clearly effective. There is no credible reason why the Library officials
290 could not accommodate Ms. Sanders' religious beliefs by offering this remote
291 work alternative.

292 69. By terminating Ms. Sanders' from her job, Defendants have
293 substantially burdened her religious exercise by forcing her to choose between
294 her sincerely held religious belief and her job.

295 Ms. Sanders requests compensatory and punitive damages in an amount
296 to be determined at trial.

COUNT III

**Violation of the Title VII of the Civil Rights Act of 1964,
against the San Francisco Public Library**

70. Ms. Sanders incorporates all allegations of this Complaint by reference as if set forth in full herein.

71. Ms. Sanders was an employee of the Library, which employed over 15 employees, entitling her to the protections of Title VII.

72. The Library is required to abide by Title VII's prohibitions on religious discrimination.

73. The Library discriminated against Ms. Sanders by intentionally rejecting her religious exemption request rooted in her Christian faith, while at the same time the City granted other exemption requests under the same policy. The Library further evidenced its bias against Ms. Sanders on the basis of her religion through its hostile treatment of her immediately following her exemption request based on her Christian faith.

74. Ms. Sanders was qualified for her position at the Library as evidenced by her stellar performance reviews.

75. Ms. Sanders suffered an adverse employment action in the form of her termination from employment.

76. Upon information and belief, the Library did not terminate a non-Christian for failing to comply with the vaccine mandate.

77. There is no legitimate nondiscriminatory reason for the Library's behavior.

78. Even if a legitimate nondiscriminatory reason exists, it is merely pretext for unlawful discrimination.

79. Ms. Sanders has suffered severe professional, economic, and psychological harm as a result of the Library's discriminatory behavior.

80. Ms. Sanders requests compensatory and punitive damages, and back pay under Title VII.

Prayer for Relief

Ms. Sanders requests the following relief against Defendants:

- (a) Award Plaintiff Sanders compensatory damages in an amount to be determined at trial;
- (b) Award Ms. Sanders punitive damages;
- (c) Award Ms. Sanders back pay;
- (d) Award Ms. Sanders attorneys' fees and costs;
- (e) Grant her request for declaratory relief as delineated above; and
- (f) Order other and further relief as the court may deem just and equitable under the circumstances of this case.

Jury Demand

Ms. Sanders demands a trial by jury.

Dated: January 17, 2022

Charlotte Sanders

By: /s/ Heather Flick

Heather Flick (Bar # 184206)

Molly McCann (*pro hac vice*
forthcoming)

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